

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK

IN RE:

**\$1229 and \$1329 MODIFICATION MOTIONS
IN ROCHESTER AND WATKINS GLEN**

**STANDING
ORDER**

(1) **MOTIONS IN GENERAL**

Except as otherwise provided by rule or ordered by the Court, and except as provided in subdivision (2) immediately following, notices of motion along with supporting affidavits and memoranda shall be served on the parties and filed with the clerk at least five (5) days prior to the return date of the motion (eight days if served by mail). Motion dates may be obtained from the Clerk. Discretionary responses to motions (those not required by these rules or by order) shall be filed and served upon the adverse party or parties as soon as practicable.

(2) **\$1229 & \$1329 MOTIONS IN ROCHESTER AND WATKINS GLEN**

(a) All motions to modify a plan under Chapter 12 or Chapter 13 as allowed under 11 U.S.C. §1229 and/or §1329 returnable in Rochester and Watkins Glen shall be served upon the parties at least twenty (20) days prior to the return date and filed with the Clerk at least seven (7) days prior to the return date. Responses, if any, shall be in writing and shall be served and filed not less than three (3) days prior to the return date of the motion. Pursuant to Federal Rule of Bankruptcy Procedure 9006(a), Saturdays, Sundays and legal holidays shall be excluded from the computation of the three (3) day response time. Unless a response is served and filed within the time permitted, the court may grant the motion by default without a hearing.

(b) All motions referred to in subdivision (2)(a) immediately preceding shall also meet the following requirements:

- (i) The notice of motion shall include the following language in bold print:

PURSUANT TO FEDERAL RULE OF BANKRUPTCY PROCEDURE 9014 AND THE STANDING ORDER ENTITLED "\$1229 & \$1329 MODIFICATION MOTIONS IN ROCHESTER AND WATKINS GLEN DATED JULY 26, 1995" IF YOU INTEND TO OPPOSE THE MOTION YOU MUST SERVE ALL PAPERS IN OPPOSITION UPON THE FOLLOWING PERSONS: THE STANDING CHAPTER 13 TRUSTEE/CHAPTER 12 TRUSTEE AND ALL CREDITORS PURSUANT TO BANKRUPTCY RULE 2002(a)(6);

IN ADDITION, YOU MUST FILE WITH THE CLERK WRITTEN OPPOSITION TO THE MOTION NO LATER THAN THREE (3) BUSINESS DAYS PRIOR TO THE RETURN DATE OF THIS MOTION. IF NO WRITTEN OBJECTION IS SERVED AND FILED, NO HEARING ON THE MOTION WILL BE HELD ON THE RETURN DATE AND THE COURT WILL CONSIDER THE MOTION AS UNOPPOSED.

- (ii) The motion shall be served and filed with a cover sheet in the form prescribed by the Clerk and available from the Clerk's Office. The cover sheet must also be served upon the Standing Chapter 13/Chapter 12 Trustee.
- (iii) A §1229 or §1329 motion to be served and filed should recite any additional professional fees earned in connection with the motion which require the approval of the Court pursuant to 11 U.S.C. Section 330(a).
- (iv) The motion to be served and filed shall include a copy of the proposed order. The original proposed order shall be submitted with the original motion when filed and shall incorporate the following four (4) required elements: a) language that the plan has been confirmed; b) actual changes made to the plan; c) amount of attorney's fees to be paid through the plan and d) statement acknowledging that the remaining provisions of the original plan are still in effect.
- (v) The debtor's amended budget is to be contained within the motion and made a part thereof.

IT IS SO ORDERED.

Dated: July 26, 1995


HONORABLE MICHAEL J. KAPLAN
CHIEF JUDGE


HONORABLE JOHN C. NINFO, II


HONORABLE CARL L. BUCKI